

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**August 11, 2009**  
**4:00 P.M.**

**CALL TO ORDER:** Mr. John Stetler, called meeting to order at 4:00 p.m.

**ATTENDANCE:**

**Members Present:** Deland Davis, Greg Dunn, Gentry Hammons, James Moreno, Carlyle Sims, and John Stetler

**Members Excused:** Mike Fatt

**Staff Present:** Jill Steele, Asst. City Attorney; Glenn Perian, Senior Planner; and Leona Parrish, Planning Admin. Assistant.

**ADDITIONS OR DELETIONS TO THE AGENDA:**

Add under New Business Gentry Hammons resignation from the Zoning Board.

Mr. John Stetler, Chairperson stated the meeting procedure and that everyone present may speak either for or against an appeal. He stated he will ask for a staff report to be read and then open the public hearing. At the public hearing persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. Mr. John Stetler stated if denied they may appeal to the Circuit Court.

**OLD BUSINESS:** None

**NEW BUSINESS:**

**Appeal #Z-10-09: (187 N. 25<sup>th</sup> Street)**

Mr. Glenn Perian stated this was an appeal from Mr. Gerald Ulbrich, 187 N. 25<sup>th</sup> Street, Battle Creek, MI 49015, requesting for a dimensional variance to waive the required 8 ft. side-yard setback and to allow a 5ft. side-yard setback for an addition to an existing carport in an "R-1B Single Family Residential District". Stated the appellant is requesting a variance that would authorize the replacement construction of an existing carport five feet (5') from a side property line, contrary to limitations outlined in Chapter 1278 of the Planning and Zoning Code. Main structures are required to maintain a side-yard setback of eight feet (8') in the R-1B zone. Appellant has stated in the supporting material that safety and also making it easier to back out of the garage as reasons the appeal should be granted. Mr. Perian stated the recommendations of the Planning staff to the Zoning Board would be to deny the Dimensional Variance based on the findings contained in the staff report.

Mr. Ulbrich, 187 N. 25<sup>th</sup> Street, Battle Creek, MI was present to speak regarding his variance request. Stated his request is a safety issue; that his truck backing-up etc. has hit the carport poles several times and that his wife has also hit them causing the cement to crack underneath.

Mr. Gentry Hammons asked Mr. Ulbrich how long have they lived at this location. Mr. Ulbrich stated 15 years.

Mr. Gentry Hammons asked what his necessary hardship would be if this variance was denied. Mr. Ulbrich stated it would prevent hitting the post and or his neighbor's property.

Mr. Carlyle Sims asked if 20 inches would be enough. Mr. Ulbrich stated yes, it would help and that last night he had written a couple of different options. (Approached the bench and showed the board his examples)

Mr. Carlyle Sims asked if he would use the existing concrete and just expand on it. Mr. Ulbrich stated he would like to move the poles and not add more concrete. He provided examples of proposed relocation of poles (1'4" further out) which would make the carport width of 14'5" to outside edge.

Mr. Dunn asked if when the home was purchased 15 years ago did they have the carport at that time. Mr. Ulbrich stated, yes.

Mr. James Moreno asked after 15 years, why is it now become a problem. Mr. Ulbrich stated the driveway needs the concrete to be replaced as it leaks into their basement.

Mr. Greg Dunn asked Mr. Perian if he replaced the carport with new concrete; can he leave it where it presently stands. Mr. Perian stated he cannot totally remove the carport as it is legal non-conforming; once it is removed they would need a variance to replace where it currently stands. Said Mr. Ulbrich is asking for a variance to move the post out 1.5 ft.

Mr. Greg Dunn stated the neighbor's home is already only 5 ft. from their side-yard setback and asked if a Fire Truck could fit through if needed. Mr. Ulbrich stated where their homes sit near the corner; the Fire Trucks can reach them from that corner.

Mr. Davis stated he understood that the carport was there when the home was purchased. Mr. Ulbrich stated yes, the expansion was added to the driveway towards the north (neighbors) about 5-6 years ago.

*Mr. John Stetler asked if there were any others here to speak for or against this variance, seeing none he called this public hearing to a close and would entertain a motion.*

**MOTION: MR. CARLYLE SIMS MADE A MOTION TO APPROVE # Z-10-09 SIDE-YARD VARIANCE TO ALLOW AN ADDITIONAL 20 INCHES FOR PROPERTY LOCATED AT 187 N. 25<sup>TH</sup> STREET, SUPPORTED BY MR. DELAND DAVIS.**

**Discussion:**

Mr. James Moreno stated for safety purposes he could not support as stated in #19 of the staff report.

**AMMENDED MOTION: MR. CARLYLE SIMS MADE A MOTION TO APPROVE # Z-10-09 SIDE-YARD VARIANCE TO ALLOW AN ADDITIONAL 18 INCHES FOR PROPERTY LOCATED AT 187 N. 25<sup>TH</sup> STREET, SUPPORTED BY MR. DELAND DAVIS.**

**MOTION WAS RECINDED BY MR. SIMS AND MR DAVIS.**

**MOTION: MR. GREG DUNN MADE A MOTION TO APPROVE # Z-10-09 TO ALLOW A 5 FT. SETBACK RATHER THAN THE REQUIRED 8 FT. SETBACK AS SUBMITTED FOR PROPERTY LOCATED AT 187 N. 25<sup>TH</sup> STREET, SUPPORTED BY MR. DELAND DAVIS.**

**Reasons for Motion:**

Mr. Greg Dunn stated it was difficult to see a practical difficulty as they lived with this carport where it stands for the past 15 years. Feels it is self created by moving their driveway and cannot support this request.

Mr. Deland Davis feels this is not unique for that area; that his lot is wider than most in their neighborhood. He sees no problem with the land and will not be in support.

Mr. John Stetler said this is not unique and does not see a practical difficulty; cannot support.

Mr. Gentry Hammons stated that using this driveway for the past 15 years without a problem; he does not see a practical difficulty and would not be in support.

**MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, BEING NONE A VOTE WAS TAKEN FOR THE VARIANCE; ONE (SIMS) IN FAVOR; FIVE (DAVIS, DUNN, HAMMONS, MORENO, AND STETLER) OPPOSED: MOTION FAILED.**

**Vote Findings and Comments:**

The board asked it be noted for the record that their vote findings are based on their agreement with the staff report.

**Addition to Agenda: Gentry Hammons Resignation from Zoning Board**

**MOTION: WAS MADE BY MR. GREG DUNN TO ACCEPT THE RESIGNATION SUBMITTED BY MR. GENTRY HAMMONS FROM THE ZONING BOARD OF APPEALS; SUPPORTED BY MR. JAMES MORENO. ALL IN FAVOR, NONE OPPOSED, MOTION CARRIED - APPROVED.**

The board members wanted to thank Mr. Gentry Hammons for his past years of service as a Zoning Board of Appeals member and wished him well and noted that he will be missed.

Mr. Gentry Hammons thanked the board and also wanted to thank them for supporting him over the years. Stated he enjoyed sitting on the zoning board for the past nine years.

**APPROVAL OF MINUTES:**

**MOTION: WAS MADE BY MR. CARLYLE SIMS TO APPROVE THE JUNE 9, 2009 ZONING BOARD OF APPEALS MINUTES; SUPPORTED BY MR. DELAND DAVIS. ALL IN FAVOR, NONE OPPOSED, MOTION CARRIED - APPROVED.**

**MOTION: WAS MADE BY MR. DELAND DAVIS TO APPROVE THE JULY 14, 2009 ZONING BOARD OF APPEALS WORKSHOP MEETING MINUTES WITH THE CORRECTION NOTED; SUPPORTED BY MR. CARLYLE SIMS. ALL IN FAVOR, NONE OPPOSED, MOTION CARRIED - APPROVED.**

*(Correction to June 14, 2009 Workshop meeting minutes as having a typographical error on third paragraph, third word as being (ne) should have been (new)).*

**COMMENTS BY THE PUBLIC:** None

**COMMENTS BY THE MEMBERS / STAFF:**

Mr. Glenn Perian stated he has enjoyed working with Gentry Hammons on the Zoning Board; as he had come into the office many times regarding petitions submitted for review.

Mr. Deland Davis asked Gentry how many years had he sat on the zoning board. Mr. Gentry Hammons stated approximately nine (9) years.

**ADJOURNMENT:** Mr. Greg Dunn moved for the meeting to be adjourned; meeting was adjourned at 4:47 p.m.

Submitted by: Leona A. Parrish  
Administrative Assistant, Planning Department